IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

ORDER

SB CIVIL WRIT PETITION NO.10194/2005
Raghunandan Goyal & Ors. V/s Debts Recovery Tribunal & Ors.

DATE OF ORDER : : : 31.1.2007

PRESENT
HON'BLE MR. JUSTICE PREM SHANKER ASOPA

Mr.R.K. Mathur, for the petitioners.
Mr.Rajendra Salecha, for the respondents.

With the consent of the parties, the writ petition was taken up for final decision, although it was listed for orders on the application for vacation of stay order dated 21.12.2005.

By this writ petition, the petitioner has challenged the order dated 5.12.2005 whereby his application filed under Section 22 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (hereinafter to be referred as “the Act of 1993) for following the procedure as per the judgment of Apex Court in case of *Mardia Chemicals* reported in 2004 (4) SCC 311 by treating it as a civil suit has been disallowed even without referring the said judgment of the Apex Court.

Submission of counsel for the petitioner is that as per Apex Court, this matter is required to be tried as a civil suit as per the provisions of CPC whereas contention of the respondents is that it is to be tried as per Section 22 of the Act of 1993 read with Section 77 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest At, 2002 as interpreted by the Apex Court in case of Mardia Chemicals.

In view of above, the order dated 5.12.2005 is modified and the Tribunal is directed to decide the application filed by the petitioner in accordance with Section 22 of the Act of 1993 read with Section 77 of the Act of 2002 as interpreted by the Apex Court in Mardia Chemicals.

The writ petition is disposed of.

(P.S. ASOPA) J.

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